

1 JUDITH B. VASAN, Counsel (SBN 278115)
2 California Department of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105
5 Telephone: (213) 576-6982
6 Direct: (213) 576-6904
7 Fax: (213) 576-6917
8 *Attorney for Complainant*

FILED
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DEPT. OF REAL ESTATE
By LA

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation Against) DRE No. H-42255 LA
13)
14 MARK L. BRANDENBURGER,)
15 Respondent.) ACCUSATION

16 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
17 State of California, for cause of Accusation against MARK L. BRANDENBURGER
18 (Respondent) alleges as follows:

19 1.

20 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
21 State of California, makes this Accusation in her official capacity.

22 2.

23 All references to the "Code" are to the Real Estate Law, Part 1 of Division 4 of
24 the California Business and Professions Code.

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ACCUSATION

1 LICENSE HISTORY

2 3.

3 a. Respondent is presently licensed and/or has license rights under the Code, as a
4 real estate broker with Department of Real Estate (Department) license ID 00818280.

5 b. Respondent's broker license was originally issued on March 21, 1986, and is
6 scheduled to expire on March 20, 2026, unless renewed.

7 c. Respondent held a Mortgage Loan Originator (MLO) license endorsement
8 with the Department with the assigned National Mortgage Licensing System and Registry
9 (NMLS) No. 233703. Respondent's MLO endorsement expired December 31, 2022. The
10 Department retains jurisdiction over the lapsed MLO license endorsement pursuant to Code
11 section 10103 and Section 2945.4 of Title 10, Chapter 6 of the California Code of Regulations.

12 STATEMENT OF FACTS

13 4.

14 Respondent violated the NMLS student Rules of Conduct (ROC) by using the
15 services of Danny Yen, dba Real Estate Educational Services (REES) to complete his NMLS-
16 approved continuing education (CE) courses, which constitutes a violation of the licensing
17 requirements of this state and under federal law. Specifically, Respondent used and
18 compensated REES to obtain credit through both an online fraud scheme and an in-person
19 fraud scheme. In the online fraud scheme, Respondent had REES complete one (1) online
20 course during the year 2020 on Respondent's behalf. The course for which Respondent
21 received course credit was completed by REES through an IP address associated with REES.
22 Additionally, under the in-person fraud scheme, Respondent used REES to annually report
23 completion of an in-person course for four years from 2017 to 2020. REES did not teach the in-
24 person course and Respondent never attended the in-person course nor completed the required
25 exam or course work to receive course credit.

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1 NMLS Pre-Licensing and Continuing Education

2 5.

3 The State Regulatory Registry LLC (SRR), which owns and operates the
4 NMLS, administers pre-licensure education (PE) and CE and Uniform State Test protocols.
5 Title V of Public Law 110-289, the Secure and Fair Enforcement for Mortgage Licensing Act
6 of 2008 (the SAFE Act), requires that state-licensed MLOs complete PE prior to initial
7 licensure and annual CE thereafter. (See Code section 10166.06)

8 6.

9 In order to meet PE requirements contemplated under the SAFE Act, state-
10 licensed MLOs must complete twenty (20) hours of NMLS-approved education. Code section
11 10166.06(a).

12 7.

13 In order to meet CE requirements contemplated under the SAFE Act, state-
14 licensed MLOs must complete eight (8) hours of NMLS-approved education. Code section
15 10166.10(a).

16 REES

17 8.

18 REES, NMLS course provider number 1405046, was an NMLS-approved
19 course provider during the years 2017 to 2020.

20 9.

21 The NMLS had approved REES to offer one in-person 8-hour "DBO-SAFE Act
22 Comprehensive: Mortgage Continuing Education" course in a classroom format located at
23 15751 Brookhurst Street, Suite 230, Westminster, California.

24 10.

25 REES was never approved by the NMLS to offer online PE or CE to MLOs.

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11.

During all times relevant herein, REES had its primary place of business located at 3643 Adams Street, Carlsbad, California.

12.

During all times relevant herein, REES, by and through Danny Yen, maintained with his Internet Service Provider an IP address at 76.88.84.139 (the IP Address). The IP Address assigned to Danny Yen is associated with REES' business address, 3643 Adams Street, Carlsbad, California.

REES Investigation

13.

The Mortgage Testing and Education Board (MTEB), which was created by SRR, has approved "Administrative Action Procedures for S.A.F.E. Testing and Education Requirements" (AAP), which extends administrative authority to the MTEB to investigate alleged violations of the NMLS student Rules of Conduct (ROC).

14.

The AAP also extends administrative authority to the MTEB and SRR to investigate alleged violations of the NMLS Standards of Conduct (SOC), which apply to all NMLS-Approved course providers.

15.

In late 2020, SRR obtained information concerning suspicious activity and that that information identified a possible MLO education cheating scheme coordinated by and implemented through REES and its owners and operators, including Danny Yen. Based on that information, and pursuant to the AAP, SRR initiated an investigation into the matter.

Findings of SRR and Department Investigation

16.

On or about December 15, 2020, SRR staff were informed of suspected individuals completing online NMLS-approved education courses on behalf of another.

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17.

Subsequent SRR research found at least 113 education students associated with taking online PE and/or CE courses from the IP Address in Carlsbad, California.

18.

Respondent was identified as one of the 113 students that had completed CE from the IP Address in Carlsbad, California and who received NMLS course credit.

19.

It was determined that the IP Address in question belonged to Danny Yen, REES' owner and operator.

20.

Respondent does not reside or work at 3643 Adams Street, Carlsbad, California, the physical address associated with the IP Address identified by the Commissioner as belonging to REES.

21.

Based upon the results of the SRR investigation and the IP Address information, it was determined that Respondent had used the services of REES and compensated REES to complete a 1-hour online course titled "1 Hour FL Safe: A Guide to Florida Mortgage Law" in August 2020 in violation of the ROC.

22.

Additional investigation revealed evidence that REES fraudulently provided course credit to MLOs who had never attended and completed REES' 8-hour in-person CE course in Westminster, California in an in-person fraud scheme.

23.

Respondent was identified in NMLS records as receiving course credit for REES' 8-hour in-person CE course in 2017, 2018, 2019, and 2020. It was determined that none of these in-person courses ever took place and Respondent never attended an in-person course corresponding to the course credits Respondent received. Consequently, Respondent never took

1 a knowledge examination required for course credit. It was determined that Respondent had
2 used REES to obtain four years of course credits from 2017 to 2020 in violation of the ROC
3 under the in-person fraud scheme.

4 24.

5 The ROC provide in relevant part:

6 ROC 3: I understand that the SAFE Act and state laws require me to spend a
7 specific amount of time in specific subject areas. Accordingly, I will not attempt to circumvent
8 the requirements of any NMLS approved course.

9 ROC 4: I will not divulge my login ID or password or other login credential(s)
10 to another individual for any online course.

11 ROC 5: I will not seek or attempt to seek outside assistance to complete the
12 course.

13 ROC 8: I will not engage in any capacity that would be contrary to good
14 character or reputation, or engage in any behavior that would cause the public to believe that I
15 would not operate in the mortgage loan business lawfully, honestly or fairly.

16 ROC 9: I will not engage in any conduct that is dishonest, fraudulent, or would
17 adversely impact the integrity of the course(s) I am completing and the conditions for which I
18 am seeking licensure or renewal of licensure.

19 25.

20 By using the services of another to complete his CE and receiving fraudulent
21 course credits through a non-existent course, Respondent violated ROC 3, 4, 5, 8, and 9, and
22 engaged in conduct that was dishonest, fraudulent, and that adversely impacted the integrity of
23 the courses and the conditions and qualifications for which Respondent sought licensure or
24 renewal of licensure.

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Prior License Discipline by Another State Agency

26.

On or about December 20, 2021, the California Department of Financial Protection and Innovation (DFPI) filed an Accusation against Respondent alleging Respondent used and compensated REES to obtained credit through both an online fraud scheme and an in-person fraud scheme. On or about March 14, 2022, DFPI filed a First Amended Accusation, OAH Case No. 2022020483. On or about July 11, 2022, Respondent and DFPI resolved the allegations in the First Amended Accusation. In Respondent’s settlement agreement with DFPI, Respondent admitted that Respondent “did not complete all CE requirements necessary for licensure.” Under the settlement agreement with DFPI, Respondent was to surrender his MLO license, pay an administrative penalty of \$1,000.00, and complete PE and CE prior to the submission of any new MLO license. Respondent was also barred from applying for a new MLO license from DFPI for a period of one (1) year from the Effective Date.

27.

The prior license discipline against Respondent, as alleged in Paragraph 26 above, constitutes cause for the suspension or revocation of the license, MLO license endorsement, and/or license rights of Respondent under Business and Professions Code section 10177(f).

Financial Responsibility, Character, and General Fitness

28.

Pursuant to Code section 10166.05(c), the Commissioner must deny a MLO license endorsement if the licensee fails to meet the minimum criteria for licensure, which includes a requirement that the applicant “has demonstrated such financial responsibility, character and general fitness as to command the confidence of the community and to warrant a determination that the [MLO] will operate honestly, fairly, and efficiently within the purposes of this division.”

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1 originator license endorsement for a violation of this article, or any rules or regulations adopted
2 hereunder.

3 (b) Deny, suspend, revoke, condition, or decline to renew a mortgage loan
4 originator license endorsement, if an application or endorsement holder fails at any time to
5 meet the requirements of Section 10166.05 or 10166.09, or withholds information or makes a
6 material misstatement in an application for a license endorsement or license endorsement
7 renewal.”

8 33.

9 Section 10177 of the Code provides in pertinent part, “[t]he Commissioner may
10 suspend or revoke the license of a real estate licensee, delay the renewal of a license of a real
11 estate licensee, or deny the issuance of a license to an applicant, who has done any of the
12 following...

13 ...

14 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing
15 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and
16 regulations of the commissioner for the administration and enforcement of the Real Estate Law
17 and Chapter 1 (commencing with Section 11000) of Part 2.

18 ...

19 (f) Acted or conducted themselves in a manner that would have warranted the
20 denial of their application for a real estate license, either had a license denied or had a license
21 issued by another agency of this state, another state, or the federal government revoked,
22 surrendered, or suspended, or received an order of debarment, for acts that, if done by a real
23 estate licensee, would be grounds for the suspension or revocation of a California real estate
24 license, if the action of denial, revocation, surrender, suspension, or debarment by the other
25 agency or entity was taken only after giving the licensee or applicant fair notice of the charges,
26 an opportunity for a hearing, and other due process protections...and only upon an express
27 finding of a violation of law by the agency or entity.

1 (g) Demonstrated negligence or incompetence in performing an act for which
2 the officer, director, or person is required to hold a license.

3 ...

4 (j) Engaged in any other conduct, whether of the same or of a different character
5 than specified in this section, that constitutes fraud or dishonest dealing.

6 COSTS

7 (INVESTIGATION AND ENFORCEMENT COSTS)

8 34.

9 Section 10106 of the Code, provides, in pertinent part, that in any order issued in
10 resolution of a disciplinary proceeding before the Department, the Commissioner may request
11 the administrative law judge to direct a licensee found to have committed a violation of this
12 part to pay a sum not to exceed the reasonable costs of investigation and enforcement of the
13 case.

14 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
15 this First Amended Accusation and that upon proof thereof, a decision be rendered imposing
16 disciplinary action against the licenses, MLO endorsement, and/or license rights of Respondent
17 MARK L. BRANDENBURGER under the Real Estate Law, for the costs of investigation and
18 enforcement as permitted by law and for such other and further relief as may be proper under
19 other applicable provisions of law.

20 Dated at San Diego, California this 12 day of January, 2023.

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22
23 *Veronica Kilpatrick*

24 _____
25 Veronica Kilpatrick
26 Supervising Special Investigator

26 cc: MARK L. BRANDENBURGER
27 Veronica Kilpatrick
Sacto.